

Application No. 10/713,578
Amendment dated October 24, 2005
Reply to Office Action dated September 22, 2005

Remarks/Arguments

Claims 1-52 are pending in this Application. In the Office Action mailed on the date of October 22, 2005, the Examiner requested the claims be restricted to one of six inventions that include:

- I. Claims 1-3, 4 in part, 5-8 and 47, drawn to a method of preparing a proteoliposome comprising the steps of contacting a liposome with an effective portion of RLIP76 to create a proteoliposome, further comprising adding the proteoliposome to a toxic compound, wherein the toxic compound resides in an organism, mammalian cell or transfected mammalian cell;
- II. Claims 1-3, 4 in part, 5-8 and 47, drawn to a method of preparing a proteoliposome comprising the steps of contacting a liposome with an effective portion of RLIP76 to create a proteoliposome, further comprising adding the proteoliposome to a toxic compound, wherein the toxic compounds resides in a bioreactor, soil, water, spill, process waste stream, manufacturing waste, chemical waste, laboratory waste or hospital waste;
- III. Claims 9-29 and 48-52 drawn to a proteoliposomal composition comprising a liposome and an effective amount of RLIP76;
- IV. Claims 30-33, 34 in part, 35 and 43-46, drawn to a method of reducing the effects and/or enhancing resistance of cells to a toxic compound;
- V. Claims 30-33, 34 in part and 35, drawn to a method of reducing the effects of ionizing radiation comprising adding a proteoliposome to a material with ionizing radiation, wherein the material is soil, water, spill, process waste stream, manufacturing waste, chemical waste, laboratory waste or hospital waste; and
- VI. Claims 36-42, drawn to a kit prepared for using a proteoliposomal composition.

Applicants respectfully address the basis for the Examiner's restriction below.

Restriction/Election

On page 2 of the Office Action, the Examiner requested that the claims be restricted to one six inventions. Applicants hereby provisionally elect Group I—Claims 1-3, 4 in part, 5-8 and 47, drawn to a method of preparing a proteoliposome comprising the steps of contacting a liposome with an effective portion of RLIP76 to create a proteoliposome, further

Application No. 10/713,578
Amendment dated October 24, 2005
Reply to Office Action dated September 22, 2005

Attorney Docket No.: 124263-1006

comprising adding the proteoliposome to a toxic compound, wherein the toxic compound resides in an organism, mammalian cell or transfected mammalian cell—with traverse for continued prosecution. It is requested that Claims 9-46, 48-52, and the non-elected subject matter of Claim 4 (wherein one or more toxic compounds reside in a bioreactor, soil, water, spill, process waste stream, manufacturing waste chemical waste, laboratory waste, hospital waste, and combinations thereof) be withdrawn from further prosecution. Any claim cancellation will be made upon the filing of a divisional application.

Traversal is argued on the grounds that a thorough search of the subject matter of Claims 9-46, 48-52, and the non-elected subject matter of Claim 4 would necessarily include a search of similar subject matter because all claims are drawn to a proteoliposome comprising a liposome and an effective portion of RLIP76. Given the unifying subject matter of all the independent claims, including the (materially) same composition and preparation (e.g., a proteoliposome comprising a liposome and an effective portion of RLIP76) as well as the same function and effect (e.g., transport of toxic compounds), Applicants submit that any art identified within Group I would necessarily include art identified within Group II and VI. Moreover, Applicants submit that all methods require the contact of a liposome and an effective portion of RLIP76. Accordingly, Applicants submit that, as claimed, the processes of making are not materially distinct from the products made. This includes the fact that the processes as claimed do not make a materially different product, because each invention as identified by the Examiner (i.e., Group) uses the same product, a proteoliposome comprising a liposome and an effective portion of RLIP76, and for each invention as identified by the Examiner (i.e., Group), the process of making the product (i.e., proteoliposome) is not claimed to be materially different. As such, the inventions are not distinct and do not have separate status in the art. Applicants submit also that the Examiner has not materially shown the inventions to be distinct, e.g., by showing the different classifications of each group. Because the inventions are not distinct for the reasons set forth above, examination of Claims 9-46, 48-52, and the non-elected subject matter of Claim 4, on the merits, would impose no additional burden on the Patent Office. *See* MPEP 803.

With this Amendment, Applicants also respectfully submit amendments to the Specification and the claims. The Specification has been amended at paragraph [0001] to correct a typographical error. Entry of amended paragraph [0001] is respectfully requested.

Application No. 10/713,578
Amendment dated October 24, 2005
Reply to Office Action dated September 22, 2005

Attorney Docket No.: 124263-1006

Claims 1, 3-8 and 47, have been amended to provide further clarification to the claims. These amendments are believed necessary to adequately protect Applicants' claimed invention. Claims 1 and 47 have been amended to provide clarity to the term RLIP76, now identified by the official name "RabBP1," and to identify a proteoliposome as one "that delivers the effective portion of RabBP1 for transport of toxic compounds without the assistance of a co-transport molecule." Support for amended Claims 1 and 47 can be found throughout the Specification at, for example, paragraph [0042] and Table 1. Claims 3-8 have been amended as to matters of form and to provide proper antecedent basis. No new matter is introduced with these amendments. Accordingly, entry and allowance of amended Claims 1, 3-8 and 47 are respectfully requested.

Application No. 10/713,578
Amendment dated October 24, 2005
Reply to Office Action dated September 22, 2005

Attorney Docket No.: 124263-1006

Conclusion

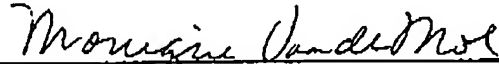
In light of the remarks and arguments presented above, Applicants respectfully submit amendments to the Specification and claims. Amendments to the claims are believed necessary to protect the instant invention and are believed to be in condition for allowance. Favorable consideration and allowance of the pending claims is therefore respectfully requested.

No fees are believed to be due with this Amendment. If this is incorrect, Applicants hereby authorize the Commissioner to charge any fees, other than the issue fee, that may be required by this paper to Deposit Account 07-0153.

If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Dated: October 24, 2005.

Respectfully submitted,
GARDERE WYNNE SEWELL LLP


Monique A. Vander Molen
Registration No. 53,716
AGENT FOR APPLICANTS

1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
(214) 999-4330 – Telephone
(214) 999-3623 – Facsimile